

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution - General and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division (Division) assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. The dispute was received on July 3, 2003.

In accordance with Rule 133.307 (d), requests for medical dispute resolution are considered timely if it is filed with the division no later than one (1) year after the date(s) of service in dispute. The Commission received the medical dispute resolution request on 07-03-03, therefore the following date(s) of service are not timely: 06-20-02

The following disputed date of service was withdrawn by the requestor on January 27, 2004: 05-20-03

Injured worker will submit a new dispute for date of services 05-20-03 since he has not requested reimbursement from insurance carrier first.

The Medical Review Division has reviewed the IRO decision and determined that **the requestor prevailed** on the issues of medical necessity.

In accordance with §413.031(e), it is a defense for the carrier if the carrier timely complies with the IRO decision.

Based on review of the disputed issues within the request, the Medical Review Division has determined that **medical necessity was the only issue** to be resolved. The treatments cyclobenzaprine, propoxyphene and Vioxx were found to be medically necessary. The respondent raised no other reasons for denying reimbursement for the above listed treatment.

This findings and decision is hereby issued this 17<sup>th</sup> day of March 2004.

Patricia Rodriguez  
Medical Dispute Resolution Officer  
Medical Review Division

On this basis, and pursuant to §§402.042, 413.016, 413.031, and 413.019 of the Act, the Medical Review Division hereby ORDERS the respondent to pay the unpaid medical fees in accordance with the fair and reasonable rate as set forth in Commission Rule 133.1(a)(8) plus all accrued interest due at the time of payment to the requestor within 20 days of receipt of this order. This Order is applicable to dates of service 07/22/02 through 04/17/03 in this dispute.

The respondent is prohibited from asserting additional denial reasons relative to this Decision upon issuing payment to the requestor in accordance with this Order (Rule 133.307(j)(2)).

This Order is hereby issued this 17<sup>th</sup> day of March 2004.

Roy Lewis, Supervisor  
Medical Dispute Resolution  
Medical Review Division  
RL/pr

## NOTICE OF INDEPENDENT REVIEW DECISION

**Date:** March 8, 2004

**MDR Tracking #:** M5-04-1391-01

**IRO Certificate #:** 5242

\_\_\_ has been certified by the Texas Department of Insurance (TDI) as an independent review organization (IRO). The Texas Workers' Compensation Commission (TWCC) has assigned the above referenced case to \_\_\_ for independent review in accordance with TWCC Rule §133.308 which allows for medical dispute resolution by an IRO.

\_\_\_ has performed an independent review of the proposed care to determine if the adverse determination was appropriate. In performing this review, relevant medical records, any documents utilized by the parties referenced above in making the adverse determination and any documentation and written information submitted in support of the appeal was reviewed.

The independent review was performed by a reviewer (who is board certified in) who has an ADL certification. The reviewer has signed a certification statement stating that no known conflicts of interest exist between him or her and any of the treating physicians or providers or any of the physicians or providers who reviewed the case for a determination prior to the referral to for independent review. In addition, the reviewer has certified that the review was performed without bias for or against any party to this case.

### **Clinical History**

The claimant apparently was injured at work in \_\_\_. He was treated medically and then subsequently, because of the presence of a bilateral pars defect at L5-S1 on the lumbar spine film in December of 1993, had the diagnosis of spondylosis and spondylolisthesis. He underwent a lumbar laminectomy and fusion at L5-S1 bilaterally and a posterior lateral fusion without instrumentation by \_\_\_ in January of 1995. Subsequent films into 1999 suggested that there was a good fusion. The patient continued to complain of intermittent back pain, sometimes radiating into his legs and sometimes not. These were treated off and on with medical treatment and with some attempts at physical therapy without success. He has continued these complaints on into 2002 and 2003 and perhaps even presently.

### **Requested Service(s)**

The specific medications he received for these complaints between July 22, 2002 and April 17, 2003 are cyclobenzaprine, propoxyphene and Vioxx. The question is whether this treatment is medically necessary.

### **Decision**

I agree with the provider, based only on issues of medical necessity, that the current medications are necessary.

### **Rationale/Basis for Decision**

I have been asked to render an opinion based solely on medical necessity, without regard to whether the symptoms for which the current medications are being prescribed are causally related to the compensable work injury. These medications are within a group of medications which are standard for the treatment of intermittent and chronic low back pain of a non-specific nature but most likely due to a progressive degenerative disc and joint disease which occurs throughout life and during aging.